

EPA Checklist of SLA Pesticide Applicator Certification Programs
First Level Review - 2018

Purpose: EPA is asking for the information below to assess the status of existing pesticide applicator certification programs and the changes pesticide State Lead Agencies (SLAs) are anticipating to align with the 2017 revised federal Certification of Pesticide Applicators of Restricted Use Pesticides at 40 CFR 171. In turn, this information will help EPA develop tools, such as checklists, guidance, and templates to support program needs. This review does not include all of the 2017 revisions, nor does it take the place of the EPA Certification Plan review and approval process. EPA intends to follow up with a more in depth review based on the outcomes of the first level reviews. Please contact EPA regional staff with any questions or comments.

Name of contact person and name State Lead Agency (SLA) for State, Tribe or Territory: Gary Whipple, Rosebud Sioux Tribe

EPA Region: 8

Name of EPA regional staff reviewer: TBD

Date EPA region received information from SLA:

Date EPA regional reviewer completed review:

Please mark "X" to keep track of which ones will need follow-up for more information. Answer each question with a Yes/No and list or describe as appropriate.

I. Private Applicator Certification

A. Private Applicator Categories (§171.105(b) thru (h))

___1. Does the SLA have, or plan to add any of the new federal categories? (Note: Federal categories only need to be added if needed in a particular jurisdiction. If the SLA has or plans to add any of these as categories/subcategories, EPA will have to compare the competency standards to those in 171.105 (b) thru (f).)

No	Soil fumigation	
No	Non-soil fumigation	
No	Combination soil/nonsoil fumigation, general fumigation (or other name:)
No	Sodium fluoroacetate (Livestock Protection Collar) (or other name:)
No	Sodium cyanide (M-44 ejection device) (or other name:)
No	Aerial Application (or other name:)

___2. Does the SLA have any other private applicator categories not mentioned above? No
If so, please describe.

B. Private Applicator Determination of Competency (§171.105(h))

___1. Does the SLA require that private applicators be able to read the label or do they have a “nonreader provision”¹ exception for private applicators? No

If so, please describe who/how the nonreader provision is used.

___2. Does the SLA require exams for private applicator:

a. Certification? No If not, is it an option? No

b. Recertification? No If not, is it an option? No

If the answer to any of the above in B.2. is yes, continue here. If not, skip to B.3.

c. Are exams in person, online, mailed in, or other? Please describe how they are administered and in what format.

d. Do candidates have to show identification? Yes/No

i. If so, what forms of identification are acceptable? (e.g., photo, no photo, government identification with or without photo, combination of identification and proof of address, etc.)? Are two i.d.s required? (i.e., one with and one without photo.)

ii. When is identification shown?

iii. If the exam is not taken in person, please explain how the identity of the candidate is verified.

e. Is there a proctor present at all times from the point the exam is handed out to when it is handed in? Yes/No or NA If so, who is the proctor? (e.g., employee of SLA or PSEP, or other person)

___3. Does the SLA require training for private applicator:

___a. Certification? No If not, is it an option? No

___b. Recertification? No If not, is it an option? No

If the answer is yes to one or both of the above, continue. If not, skip to B.4.

i. Is training given in person only? Yes/No If not, please explain.

ii. Who (SLA, PSEP, other) keeps track of attendance and how (Sign-in sheet, bar codes on applicator card, database, etc.)? How is this accomplished if training is not in person?

iii. Do candidates show identification? Yes/No

If so, what forms of identification are acceptable? (e.g., photo, no photo, government identification with or without photo, combination of identification and proof of address, etc.)? How many i.d.s are required? Who checks identification? How is this accomplished if training is not in person?

___4. Does the SLA require any other methods (e.g. performance testing) in addition to, or in place of exams and/or training to determine competency for certification and/or recertification? No If so, please explain.

C. Private Applicator Recertification Period (§171.107(a))

¹ The 1970s Certification rule “nonreader” provision allowed illiterate private applicators to become certified. It was omitted from 2017 Certification rule. SLAs with the provision will have to remove it.

___ Does the SLA have a recertification period greater than 5 years for any category/subcategory, limited use, and/or applicator type? Yes/No If so, please explain.

D. Private Applicator Minimum Age (§171.105(g))

___ 1. Does the SLA have a minimum age requirement for private applicators? No

___ a. If not, has the SLA already proposed a change to laws and/or regulations to add a minimum age requirement? No If so, please describe the proposal, status and schedule.

___ b. If so –

i. What is the minimum age? ___

Please explain if it is limited to RUP use, certain categories, and any other limitations.

___ ii. Is it in the SLA's pesticide laws/regulations, or in State/Tribe/Territory labor or other laws/regulations? No If so, please explain.

___ iii. Are there any exceptions to the minimum age requirement (e.g., family farms, vocational educational programs)? No If so, please explain.

E. SLA's Anticipated Changes

Does the SLA anticipate having to make any changes to the requirements for I. Private Applicator Certification:

No	Categories
No	Nonreader provision
No	Exams
No	Training
No	Proof of identification
No	Competency standards
No	Recertification period
No	Minimum age

For each "yes" answer, please explain how they have to make the change (by law, regulation, policy, other), what it may take (steps), how long and if the SLA foresees any problems or stumbling blocks (e.g., state labor law minimum age is less than 18.) Also, please describe any other related changes that may come to mind that are not mentioned here.

II. Commercial Applicator Certification

A. Commercial Applicator Categories (§171.101)

___ 1. **Does the SLA have** categories for commercial applicator fumigation (soil, non-soil, general fumigation or other)?

No	Soil fumigation
No	Non-soil fumigation
No	Combination soil/nonsoil fumigation, general fumigation (or other name:)

If not, does the SLA plan to add any (or change existing) fumigation categories:

Yes	Soil fumigation
Yes	Non-soil fumigation

Yes Combination soil/nonsoil fumigation, general fumigation (or other name:)

___ 2. Does the SLA have categories for commercial applicator use of predator control RUP products?

No Sodium fluoroacetate (Livestock Protection Collar) (or other name:)

No Sodium cyanide (M-44 ejection device) (or other name:)

No Other name (e.g., predator control):

If not, does the SLA plan to add (or change existing) predator control categories?

Yes Sodium fluoroacetate (Livestock Protection Collar) (or other name:)

Yes Sodium cyanide (M-44 ejection device) (or other name:)

Yes Other name (e.g., predator control):

___ 3. Does the SLA certify commercial applicators for aerial application? No

a. If so, is it a category or subcategory? Or is it another type of qualification? Please explain.

b. If not,

i. does the SLA accept commercial aerial application certification from other states? No If so, please explain.

ii. does the SLA plan to add (or change) a category or subcategory for aerial application? No If so, please explain.

___ 4. Does the SLA have any commercial applicator categories/subcategories that might be considered "limited use"²?

No

a. If so, describe the limited use category or categories with category/subcategory name(s), the RUPs to which it is limited, why it is not practical to be part of an existing category, how they demonstrate competency (exam, training, performance testing, other), and approximate number of applicators holding valid certification.

b. If not, does the SLA plan to add one? Yes

i. If so, please describe the limited use category or categories with category/subcategory name(s), the RUPs to which it is limited, why it would not be practical to be part of an existing category, how they plan to demonstrate competency (exam, training, performance testing, other), and an estimate of the number of applicators holding valid certification.

B. Commercial Applicator Determination of Competency (§171.103(a)(2))

1. Does the SLA require exams for commercial applicator:

___ a. Recertification? No If not, is it an option? No

If the answer to 1.a. is yes, continue. If not, skip to B.2.

b. Are exams in person, online, mailed in, or other? Please describe how they are administered and in what format.

c. Do candidates have to show identification? Yes/No

i. If so, what forms of identification are acceptable? (e.g., photo, no photo, government identification with or without photo, combination of identification and proof of address, etc.)? Are two i.d.s required? (i.e., one with and one without photo.) When are they shown?

² (§171.303(a)(4) Limited use categories are for a "small" number of commercial applicators engaged in a use that does not clearly fit within any of the federal commercial applicator categories, and allows only the use of a limited set of RUPs by specific application methods.)

ii. If the exam is not taken in person, how is the identity of the candidate verified?

d. Is there a proctor present at all times from the point the exam is handed out to when it is handed in?
Yes/No or NA If so, who is the proctor? (e.g., employee of SLA or PSEP, or other person)

___2. Does the SLA require training for commercial applicator:

___a. Certification? No If not, is it an option? No

___b. Recertification? No If not, is it an option? No

If the answer is yes to any of the above in B.2., continue. If not, skip to B.3.

i. Is training given in person only? Yes/No If not, please explain.

ii. Who (SLA, PSEP, other) keeps track of attendance and how (e.g., sign-in sheet, bar codes on applicator card, database, etc.)? How is this accomplished if training is not in person?

iii. Do candidates show identification? Yes/No

If so, what forms of identification are acceptable? (e.g., photo, no photo, government identification with or without photo, combination of identification and proof of address, etc.)? How many i.d.s are required? Who checks identification? How is this accomplished if training is not in person?

___3. Does the SLA require any other methods (e.g. performance testing) in addition to, or in place of exams and/or training to determine competency for commercial applicator certification and/or recertification? No
If so, please explain.

C. Commercial Applicator Recertification Period (§171.107(a))

___Does the SLA have a recertification period greater than 5 years for any category/subcategory, limited use, and/or applicator type? No If so, please describe.

D. Commercial Applicator Minimum Age (§171.103(a)(1))

___1. Does the SLA have a minimum age requirement for commercial applicators? No

a. If not, has the SLA already proposed a change to laws and/or regulations to add a minimum age requirement? No If so, please explain the proposal age, for whom (private, commercial, other, RUP or non-RUP), the schedule and the status.

b. If so -

i. What is the minimum age?

Please explain if it is limited to RUP use, certain categories, or any other limitations.

c. Is it in the SLA's pesticide laws/regulations, or in State/Tribe/Territory labor or other laws/regulations?
NA If so, please explain.

d. Are there any exceptions to the minimum age requirement (e.g., family farms, vocational/educational programs)? NA. If so, please explain.

E. Commercial Applicator Recordkeeping Requirements (§171.303(b)(vi))

__x__1. Does the SLA require commercial applicators to keep records of (RUP) applications for at least two years? Yes/No
a. If not for two years, how long are records kept?

b. Is the following information required in the records³? Mark a Y for Yes or N for No for each item.

- ___ Name & address of person for whom the application is made
- ___ Location of application
- ___ Size of treated area
- ___ Crop, commodity, stored product or site for application
- ___ Time and date of application
- ___ Brand or product name of pesticide
- ___ EPA registration number of pesticide
- ___ Total amount of pesticide applied per location per application
- ___ Name and certification number of certified applicator that made or supervised the application
- ___ If supervised, name of noncertified applicator

F. SLA's Anticipated Changes

Does the SLA anticipate having to make any changes to the requirements for II. Commercial Applicator Certification:

- | | |
|----|----------------------------|
| No | Categories/subcategories |
| No | Limited categories |
| No | Exams |
| No | Training |
| No | Proof of identification |
| No | Competency standards |
| No | Recertification period |
| No | Minimum age |
| No | Recordkeeping requirements |

For each "yes" answer, please explain how they have to make the change (by law, regulation, policy, other), what it may take (steps), how long and if the SLA foresees any problems or stumbling blocks (e.g., state labor law minimum age is less than 18.) Also, please describe any other related changes that may come to mind that are not mentioned here.

III. Supervision of Noncertified Applicator by Certified Private and/or Commercial Applicators (§171.201)

__x__1. Does the SLA allow RUP use by noncertified applicators under the supervision of a certified applicator? Yes/No
If not, skip to the next section.

If so,

- a. Are private applicators certified for RUP only? Yes/No
- b. Are commercial applicators certified for RUP only? Yes/No
- c. What term is used if not "noncertified" applicator?

Please define the term and include whether it is:

³ The 1970s Certification rule required general records on who, what, kind, etc. The 2017 Certification rule requires specific information that may or may not be in the SLA's recordkeeping requirements.

- i. A person who is certified, but in a different jurisdiction without reciprocity. Yes/No
- ii. A person who is certified, but in a category unrelated to the application. Yes/No
- iii. Limited to a category. Yes/No
- iv. Limited to an application type. Yes/No
- v. Limited to an applicator type (commercial, private, other). Yes/No
- vi. Limited to RUPs only. Yes/No

b. Is training or experience required for non-certified applicators? Yes

If so, please describe what training is required, the type of training, the training source, if the trainer has to be qualified and how, the frequency, whether records are kept and if so for how long.

c. What are the limitations/requirements for supervisors? Please describe.

i. Does the supervisory certified applicator have to be certified in a category relevant to the type of use or application? Yes

d. Does the SLA have a minimum age requirement for noncertified applicators? No

If so, what is it? Are there any exceptions? If so, please describe the exceptions (who, circumstances, etc.).

2. SLA's Anticipated Changes

Does the SLA anticipate having to make any changes to the requirements for III. Noncertified Applicators Under the Supervision of a Certified Applicator:

Yes	Definition of terms (noncertified or other, supervisor, under the supervision, etc.)
Yes	Requirements for supervisors (certification in category, experience, etc.)
Yes	Requirements for noncertified applicators (training, etc.)
Yes	Recordkeeping requirements (noncertified applicator training, length of time, etc.)
Yes	Minimum age of noncertified applicators

For each "yes" answer, please explain how they have to make the change (by law, regulation, policy, other), what it may take (steps), how long and if the SLA foresees any problems or stumbling blocks (e.g., state labor law minimum age is less than 18.) Also, please describe any other related changes that may come to mind that are not mentioned here.

IV. Dealer Recordkeeping Requirements (§171.303(b)(7)(vii))

___1. Does the SLA require pesticide retail dealers to keep records of transactions for at least two years? No
If not two years, how long?

___2. Are dealers required to keep records of RUP transactions, or all transactions⁴? No

___3. Are dealers required to keep information on (mark either Y for Yes or N for No for each):

___n_Certified and/or noncertified applicator buyer's
 __n_name and address of residence or principal place of business
 __n_certification number
 __n_expiration date
 __n_certification category(ies) relevant to the pesticide bought

⁴ In the federal regulations, records on transactions are not required if they are solely between persons who are producers, registrants, wholesalers, or retail sellers, acting only in those capacities.

___Product name and EPA registration number, including any emergency exemption of State special local need registration number

___Pesticide quantity

___Date of transaction

___x_4. Are dealers required to see an applicator license and proper identification before selling an RUP? Yes/No
If so, please describe the types of identification required.

5. SLA's Anticipated Changes

Does the SLA anticipate having to make any changes to the requirements for IV. Dealer Recordkeeping:

No	Length of time to keep records
No	RUP/Non-RUP record requirements
No	Identification requirements (buyers to show)
No	Content of records
No	Minimum age of noncertified applicators

For each "yes" answer, please explain how they have to make the change (by law, regulation, policy, other), what it may take (steps), how long and if the SLA foresees any problems or stumbling blocks (e.g., state labor law minimum age is less than 18.) Also, please describe any other related changes that may come to mind that are not mentioned here.